

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
No. 5:24-cv-00237-KDB-DCK**

LANCE WRIGHT AND SHAUNI WRIGHT,
for themselves, as private attorneys general,
and on behalf of all others similarly situated,

Plaintiffs,

v.

LOWE'S HOME CENTERS, LLC,

Defendant.

**DEFENDANT'S MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED
COMPLAINT**

Pursuant to Federal Rules of Civil Procedure 8, 9(b), 12(b)(1), 12(b)(6), and 12(f), and Rule 7.1(a) of the Rules of Practice and Procedure of the U.S. District Court for the Western District of North Carolina, Defendant Lowe's Home Centers, LLC ("Lowe's") moves to dismiss the First Amended Complaint ("FAC") of Plaintiffs Lance Wright and Shauni Wright ("Plaintiffs") in this matter.

GROUND FOR MOTION

1. Plaintiffs alleged that Lowe's violated Oregon's Unlawful Trade Practices Act ("UTPA") by offering appliances and certain blinds on sale too much of the time. (Dkt. 1 (Compl.) ¶¶ 1, 14–15, 25.) On February 7, 2025, Lowe's filed its motion to dismiss Plaintiffs' complaint. (Dkt. 21–22.) Instead of responding to the motion, Plaintiffs filed the FAC, which raises the same contentions concerning Lowe's in-store and online products' sales. (Dkt. 25 (FAC) ¶¶ 1, 16–18.)

2. Plaintiffs' FAC falls short for the same reasons set forth in Lowe's concurrently-filed Motion to Dismiss the First Amended Complaint in *Lovell v. Lowe's*, No. 5:24-cv-00238 (W.D.N.C.), the near identical matter filed in this Court, but brought under California law.

3. First, the FAC must be dismissed in its entirety under Rules 8 and 9(b) because Plaintiffs continue to allege no facts to support their theory that Lowe's never offers the challenged merchandise at full price. In particular, they do not offer a single detail concerning Plaintiffs' counsel's purported investigation or the "data" they supposedly collected on the sole product that Plaintiffs claim to have purchased (the Whirlpool Eco Series Dishwasher). Moreover, Plaintiffs do not present any facts—old or new—regarding Lowe's in-store pricing in Oregon.

4. Second, the Court should strike Plaintiffs' claim for injunctive relief for lack of Article III standing. And because Plaintiffs currently seek several forms of damages but do not explain why such relief would not provide an adequate remedy at law for their alleged injury. *Rondeau v. Mosinee Paper Corp.*, 422 U.S. 49, 60 (1975); *Henrietta Mills v. Rutherford Cnty.*, N.C., 32 F.2d 570, 575 (4th Cir. 1929), *aff'd*, 281 U.S. 121 (1930).

5. Third, in the alternative, the Court should strike Plaintiffs' overbroad claims concerning Lowe's website, which they never visited, and products that they never purchased. They lack Article III and statutory standing to bring any such claims as are alleged in the FAC.

6. Pursuant to Local Rule 7.1(b), no other consultation is required before the filing of this Motion because it is dispositive.

7. Pursuant to Local Rule 7.1(c), Defendant submits a brief contemporaneously with this Motion.

8. Pursuant to Local Rule 7.1(g), no proposed order is being submitted.

9. This Motion is based on the attached Memorandum in Support of dismissal.

CONCLUSION

Defendant respectfully requests that the Court grant this Motion to Dismiss Plaintiffs' Amended Complaint in this matter.

April 4, 2025

Respectfully Submitted,

/s/ James M. Dedman, IV

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CERTIFICATE OF SERVICE

Pursuant to the Rules of Practice and Procedure of the United States District Court for the Western District of North Carolina and the Administrative Procedures Governing Filing and Service by Electronic Means, I certify that on April 4, 2025, I filed the foregoing document with the Court's Electronic Case Filing ("ECF") system. The act of filing this document with the Court's ECF system automatically generated a Notice of Electronic Filing ("NEF"), which constitutes proof of service of the filed document upon all registered users. As such, service has been accomplished through the NEF for parties and counsel who are registered users of the Court's ECF system. There are no known non-registered users upon whom service would be required to accomplish through other means.

April 4, 2025

/s/ James M. Dedman, IV

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*Attorneys for Defendant,
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